

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

WALTER MARTIN, SR, Plaintiff,)
v.)
STAFF, SCI SOMERSET, Defendant.)
)
C.A. No. 05-143 JOHNSTOWN
District Judge McLaughlin
Magistrate Judge Baxter

ORDER

On February 23, 2005, Plaintiff, a state prisoner appearing *pro se*, filed the instant civil rights action. This matter was assigned to United States District Judge Sean J. McLaughlin and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

By Order dated February 23, 2005, Plaintiff was directed to file a legible complaint, as well as a certified copy of his institutional account statement. To date, Plaintiff has failed to comply. Document # 1.

On July 6, 2005, Magistrate Judge Baxter issued a Report and Recommendation recommending that this case be dismissed due to Plaintiff's failure to prosecute. Document # 3.

On July 22, 2005, Plaintiff filed a statement indicating that he had previously sent copies of his institutional account statement. Plaintiff did not file a legible complaint. Document # 4.

By Order dated July 26, 2005, Magistrate Judge Baxter again directed Plaintiff to file the account statement and a legible complaint before August 10, 2005. The order warned that Plaintiff's failure to comply would result in the dismissal of this case in accordance with the Report and Recommendation issued July 6, 2005. To date, Plaintiff has failed to comply.

AND NOW, this 16th day of August, 2005;

Following a *de novo* review of the record in this case, IT IS HEREBY ORDERED that the Report and Recommendation by Magistrate Judge Baxter is adopted as the opinion of this Court. This case is dismissed due to Plaintiff's failure to prosecute.

IT IS FURTHER ORDERED that the Clerk of Courts close this case.

s/ Sean J. McLaughlin
UNITED STATES DISTRICT JUDGE